

AMENDED IN ASSEMBLY AUGUST 21, 2012

AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN ASSEMBLY APRIL 25, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2564**

---

---

**Introduced by Assembly Member Ma**

February 24, 2012

---

---

An act to amend Sections 21080.21 and 21100.2 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2564, as amended, Ma. Environmental quality: pipelines: project applicants.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts a project of less than one mile in length within a public street or highway or any other public

right-of-way for the installation of a new pipeline, as defined, or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. *Existing law excludes from the definition of pipeline, for purposes of this exemption, certain surface facilities.*

~~This bill would revise that exemption to specify that if the pipeline is used or useful in the transmission or distribution of natural gas, the pipeline subject to that exemption may include other accessories or appurtenances. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to this exemption definition of pipeline to delete the exclusion of those surface facilities and to include surface accessories or appurtenances to a pipeline.~~ The bill would require a resource agency, as defined, when determining the applicability of ~~this the~~ exemption of pipelines from the act with regard to a natural gas pipeline safety enhancement activity, as defined, to consider only the length of pipeline that is within its legal jurisdiction. The bill would impose a state-mandated local program by imposing new duties upon *local agencies with regard to the exemption of pipelines from the act and upon* a local agency that is a resource agency regarding the applicability of ~~this the~~ exemption regarding a natural gas pipeline safety enhancement activity.

The bill would authorize a public agency to establish a process that would allow an applicant for a natural gas pipeline safety enhancement activity to elect to pay additional fees to be used by the public agency in determining whether to approve that activity by entering into a contract with one or more 3rd parties to assist the public agency to perform the analysis.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) On September 9, 2010, a 30-inch-diameter segment of an  
4 intrastate natural gas transmission pipeline ruptured in a residential  
5 neighborhood in the City of San Bruno. The rupture caused an  
6 explosion and fire devastating a community and igniting a call to  
7 action.

8     (b) Pursuant to PUC order and Section 958 of the Public Utilities  
9 Code, enacted by Assembly Bill 56 (Chapter 519 of the Statutes  
10 of 2011), gas corporations are required to prepare comprehensive  
11 pressure testing implementation plans to pressure test or replace  
12 all intrastate natural gas transmission pipelines as soon as  
13 practicable.

14     (c) The scope of work to be accomplished within the  
15 implementation plans is unprecedented and will create thousands  
16 of jobs within the state.

17     (d) The safe and expeditious completion of these pipeline safety  
18 enhancements is a state and public safety priority.

19     (e) It is a matter of statewide concern to achieve the timely  
20 completion of natural gas pipeline safety enhancements, including  
21 programs for maintenance and operation enhancements, and to  
22 contribute to the public's confidence in the safety of natural gas  
23 pipelines and their ongoing maintenance and operation.

24     SEC. 2. Section 21080.21 of the Public Resources Code is  
25 amended to read:

26     21080.21. (a) This division does not apply to any project of  
27 less than one mile in length within a public street or highway or  
28 any other public right-of-way for the installation of a new pipeline  
29 or the maintenance, repair, restoration, reconditioning, relocation,  
30 replacement, removal, or demolition of an existing pipeline.

31     (b) For purposes of this section, "pipeline" means subsurface  
32 pipelines and subsurface or surface accessories or appurtenances  
33 to a pipeline, such as mains, traps, vents, cables, conduits, vaults,  
34 valves, flanges, manholes, and meters.

35     (c) In determining the applicability of the exemption provided  
36 by this section to a natural gas pipeline safety enhancement activity  
37 under review by a resource agency, the resource agency shall

1 consider only the length of pipeline that is within its legal  
2 jurisdiction.

3 (d) For purposes of this section, the following definitions shall  
4 apply:

5 (1) “Natural gas pipeline safety enhancement activity” means  
6 an activity undertaken by a public utility as part of a program to  
7 enhance the safety of intrastate natural gas pipelines in accordance  
8 with a decision, rule, or regulation adopted by the Public Utilities  
9 Commission.

10 (2) “Resource agency” means the State Lands Commission, *the*  
11 California Coastal Commission, *the* Department of Fish and Game,  
12 or *the* State Water Resources Control Board, and local or regional  
13 agencies with permitting authority under the California Coastal  
14 Act of 1976 (Division 20 (commencing with Section 30000)) or  
15 Chapter 4 (commencing with Section 13200) of Division 7 of the  
16 Water Code.

17 SEC. 3. Section 21100.2 of the Public Resources Code is  
18 amended to read:

19 21100.2. (a) (1) For projects described in subdivision (c) of  
20 Section 21065, each state agency shall establish, by resolution or  
21 order, time limits that do not exceed the following:

22 (A) One year for completing and certifying environmental  
23 impact reports.

24 (B) One hundred eighty days for completing and adopting  
25 negative declarations.

26 (2) The time limits specified in paragraph (1) shall apply only  
27 to those circumstances in which the state agency is the lead agency  
28 for a project. These resolutions or orders may establish different  
29 time limits for different types or classes of projects, but all limits  
30 shall be measured from the date on which an application requesting  
31 approval of the project is received and accepted as complete by  
32 the state agency.

33 (3) No application for a project may be deemed incomplete for  
34 lack of a waiver of time periods prescribed in state regulations.

35 (4) The resolutions or orders required by this section may  
36 provide for a reasonable extension of the time period in the event  
37 that compelling circumstances justify additional time and the  
38 project applicant consents thereto.

39 (b) If a draft environmental impact report, environmental impact  
40 report, or focused environmental impact report is prepared under

1 a contract to a state agency, the contract shall be executed within  
2 45 days from the date on which the state agency sends a notice of  
3 preparation pursuant to Section 21080.4. The state agency may  
4 take longer to execute the contract if the project applicant and the  
5 state agency mutually agree to an extension of the time limit  
6 provided by this subdivision.

7 (c) (1) A public agency may establish a process that would  
8 allow an applicant for a natural gas pipeline safety enhancement  
9 activity to elect to pay additional fees to be used by the public  
10 agency in determining whether to approve a natural gas pipeline  
11 safety enhancement activity by entering into a contract with one  
12 or more third parties to assist the public agency to perform the  
13 analysis, consistent with Article VII of the California Constitution  
14 and Section 19130 of the Government Code and the charter of a  
15 chartered city or county, as applicable. The public agency may,  
16 but is not required to, offer an applicant the option to pay those  
17 fees and subject a project to this process.

18 (2) The amount of the fees charged by the public agency  
19 pursuant to this subdivision shall be conditioned upon the natural  
20 gas pipeline safety enhancement activity applicant agreeing to that  
21 amount and electing to proceed with the retention of a third party  
22 pursuant to this subdivision.

23 (3) All fees paid by a natural gas pipeline safety enhancement  
24 activity applicant shall be used exclusively for analysis of that  
25 applicant's application for certification.

26 (4) For purposes of this section, "natural gas pipeline safety  
27 enhancement activity" has the same meaning as defined in  
28 paragraph (1) of subdivision (d) of Section 21080.21.

29 SEC. 4. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 a local agency or school district has the authority to levy service  
32 charges, fees, or assessments sufficient to pay for the program or  
33 level of service mandated by this act, within the meaning of Section  
34 17556 of the Government Code.

35 SEC. 5. This act is an urgency statute necessary for the  
36 immediate preservation of the public peace, health, or safety within  
37 the meaning of Article IV of the Constitution and shall go into  
38 immediate effect. The facts constituting the necessity are:

39 In order to achieve the timely completion of natural gas pipeline  
40 safety enhancements, including programs for maintenance and

- 1 operation enhancements, and to contribute to the public's
- 2 confidence in the safety of natural gas pipelines and their ongoing
- 3 maintenance and operation, thereby protecting public health and
- 4 safety, it is necessary for this act to take effect immediately.

O